IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Bail Appl..No. 7015 of 2007

CRIME NO.224/07 OF BADIADKA POLICE STATION

: PETITIONERS/ACCUSED NOS.1 TO 9

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1. ANANDAKRISHNA NAYAK, S/O. NARAYANA NAYAK, AGED 38 YEARS, RESIDING AT ALLAR, BADIRAMPALLA, MAIRE VILLAGE, KASARAGOD TALUK.

2. J.S.RADHAKRISHNA NAYAK, S/O. LATE JANARDHANA NAYAK, AGED 32 YEARS, TEACHER, SHREE SHARADAMA A.U.P.S., SHENI, RESIDING AT SHENI 'THOTADAMANE', MAIRE VILLAGE, KASARAGOD TALUK.

3. J.S.SOMASHEKHARA NAYAK, S/O. LATE JANARDHANA NAYAK, AGED 28 YEARS, RESIDING AT SHENI "THOTADAMANE", MAIRE VILLAGE, KASARAGOD TALUK.

4. K.ABDULLA, S/O. LATE MAMMUNHI, AGED 38 YEARS, RESIDING AT KURIYADUKKAM, ENMAKAJE VILLAGE, KASARAGOD TALUK.

5. K.DINESH NAYAK, S/O. LATE SUBBAYYA NAYAK, AGED 37 YEARS, RESIDING AT KUKKILA HOUSE, MAIRE VILLAGE, KASARAGOD TALUK.

6. K.SREEDHARA NAYAK, S/O. NARAYANA NAYAK, AGED 33 YEARS, TEACHER, SREE SHARADAMBA A.U.P.S., SHENI, RESIDING AT KUKKILA, ALAR, MAIRE VILLAGE, KASARAGOD TALUK.

7. AJITHKUMAR S., S/O. LATE THIMMANNA NAYAK, AGED 26 YEARS, L.D.CLERK, SRI SHARADAMBA HIGH SCHOOL, SHENI, RESIDING AT SHENI THOTADAMANE, MAIRE VILLAGE, KASARAGOD TALUK.

8. GIREESH, S/O. NARASIMHA NAYAK, AGED 21 YEARS, RESIDING AT SHENI THOTADAMANE, MAIRE VILLAGE, KASARAGOD TALUK.

9. S.SOORYA NARAYANA, S/O. LATE GOVINDA NAYAK, AGED 38 YEARS, RESIDING AT SHENI THOTADAMANE, MAIRE VILLAGE, KASARAGOD TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA, THROUGH THE SUB INSPECTOR OF POLICE, BADIADA POLICE STATION, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7015 of 2007

Dated this the 22nd day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 9. Altogether there are 9 accused persons. They face allegations in a crime registered for offences punishable, inter alia, under Sections 307 and 324 r/w 149 I.P.C. The alleged incident took place on 7.11.07. On that day, there was the election to the college union. The 7th petitioner was allegedly one of the contestants. The crux of the allegations is that 2 injured persons were proceeding in a motor cycle. They were allegedly intercepted by the accused persons in front of the house of the 1st accused. They were attacked with wooden reapers. The pillion rider took to his heels. The rider of the motor cycle was attacked. He suffered simple injuries. He was allegedly detained in the house of the 1st accused for some period of time and was ultimately got released only after the police and others came to the scene of the crime. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Admittedly there is a case and a counter case in respect of this incident that took place on 7.11.07.

The 7th petitioner was a candidate in the college elections. He had won the election also. The defacto complainant belongs to the S.F.I, which owes allegiance to the ruling political party. Because of such political clout which the defacto complainant wields, exaggerated and false allegations are being raised. The inclusion of the allegation under Section 307 I.P.C eloquently declares the bias of the Investigating Officers. Even allegedly the victim was kept in the custody of the accused persons and the allegation is that there was an attempt to cause the death. The very simple injury suffered by the victim does not at all support this allegation, contends the learned counsel for the petitioners. The learned counsel for the petitioners, in these circumstances, prays that the petitioners may be granted anticipatory bail.

3. The learned Public Prosecutor opposes the application. But notwithstanding the opposition, in the circumstances explained above, I am satisfied that this is an eminently fit case where direction under Section 438 Cr.P.C can be issued in favour of the petitioners. In coming to this conclusion, I take note of the broad circumstances of the case, the nature of injuries suffered, that there is a case and a counter case - both pending before the same police as also the stage of investigation. Appropriate conditions can of course be imposed in the interests of a fair, efficient and expeditious investigation.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 29.11.2007. They shall be enlarged on regular bail on their executing bonds for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 30.11.2007 and 01.12.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 29.11.2007 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees

Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 29.11.2007.

(R.BASANT, JUDGE)

rtr/-